REMARKS

The present communication is responsive to the Official Action mailed August 11, 2005. Claims 1, 4-7 and 10-23 are pending in the application. Of these claims, claims 1, 7 and 13 are independent. The other claims depend from one of the independent claims.

Claim 1 has been amended to now recite "a memory for storing said received transport stream data and containing a pre-stored bit-rate value that indicates the bit-rate of said transport stream data before receipt of said transport stream by said receiving unit and corresponds to a source of origin of the broadcast; [and] a processing unit which reads said pre-stored bit rate value from said memory and determines an optimal buffer size in accordance with said bit-rate value."

Claim 7 has been amended to now recite "retrieving a bit-rate value pre-stored in the memory, the bit rate value indicating the bit rate of the transport stream to be received by the receiver and corresponding to a source of origin of the received transport stream data." Claim 7 has also been amended to improve its form.

Claim 13 has been amended to now recite "retrieving a bit-rate value pre-stored in the memory, the bit rate value indicating the data rate of the transport stream to be received by the receiver." Claim 13 has also been amended to improve its form.

Support for the amendments to claims 1, 7 and 13 may be found, for example, by reference to paragraph [0014] of the specification. Applicants therefore respectfully submit that the amendments to the claims do not constitute the addition of new matter.

In the Official Action, the Examiner rejected all the claims pending in the application under 35 U.S.C. §103(a) as being obvious over the combination of the following five

references: U.S. Patent Nos. 5,892,508 to Howe et al., ("*Howe*"); 5,978,855 to Metz et al., ("*Metz*"); 5,684,791 to Raychaudhuri et al., ("*Raychaudhuri*"); 6,212,632 to Surine et al., ("*Surine*"); and U. S. Pub. No. 2002/0012530 to Bruls ("*Bruls*").

More particularly, in rejecting claims 1 and 7, the Examiner admits that the "combination of Howe, Metz and Raychaudhuri fails to disclose performing the buffer size determination after a power on signal is issued, and prestoring a bit rate value based on the transport stream data and corresponding to a source of origin for the broadcast." (Official Action at 8.) The Examiner asserts, however, that *Bruls* makes up for the deficiency in *Howe*, *Metz* and *Raychaudhuri* of not prestoring a bit rate value by disclosing "a buffering system that prestores bitrate information related to a program which has a start and end time specified by a user in advance and utilizes different bitrates according to the contents of the signal (source of origin), additionally the bitrate may be a prestored value based upon the average bitrate of incoming tansport stream signals over time, (paragraphs 22-26, 28) thus maximizing the available buffer space by utilizing a bitrate that is appropriate for the content signal." (*Id.*)

Except for a minor rearrangement of the text quoted above, the Examiner's rejection of claim 13 is identical to the rejection of claims 1 and 7.

Applicants respectfully traverse the Examiner's rejection. In particular, applicants respectfully submit that *Bruls* does not make up for the deficiency in *Howe*, *Metz* and *Raychaudhuri* and does not disclose "a prestored valve based on the average of [an] incoming transport stream," as asserted by the Examiner.

Bruls is generally directed to a device that receives a signal on input 21, such as a signal for a video or audio program, and compresses the signal into an output signal

available at output 23. (*Bruls*, [0022].) The output signal may then be recorded onto an information carrier.

Bruls' device includes a compression unit 22 and a controller 25. (*Id.*) The controller 25 "is coupled to the control input 26 of the compression unit 22 and sets the compression unit to a desired bit rate through this control input." (*Id.*) The controller 25 receives as input, information relating to the duration of the program and the space available for storing the program and uses this input information to calculate a desired bit rate. (*Id.*) The time information is disclosed as the start and end time of the program and inputted by a user as noted by the Examiner. (Official Action at 8.) Upon receipt of this information, the controller calculates the space available and the bit rate, to wit:

> "The system controller calculates from this information the data space available for the encoded signal and sets the bit rate via the control input 26 so that the program is expected to fill the available data space completely. For example, the available data space is divided by the required duration, which duration is derived from the time information presented through the time input. This results in a bit rate (bits per second) at which the available data space will be completely filled with a program to be encoded."

(*Bruls*, [0022].) By controlling the bit rate on output 23, *Bruls'* device records the program in the available data space while maintaining the quality of the program being recorded. (*Id.*, [0005], [0010], [0023].)

As the foregoing and the remainder of *Bruls* makes clear, the only bit rate discussed or calculated by *Bruls* is the outgoing bit rate, not a bit rate associated with the input signal or received data stream. In particular, *Bruls* states that the "encoded signal [is] available on an output 23." (*Id.*,

[0022].) Furthermore, "[t]he encoded data signal contains digital data having a bit rate that can be set via a control input 26." (*Id.*) Indeed, *Bruls* does not discuss the bit rate at input 21 at all.

Since *Bruls* does not discuss or mention a bit rate associated with input 21, *Bruls* clearly does not disclose or suggest prestoring a bit rate value associated or related to the input signal. In this regard, the Examiner asserts that *Bruls* teaches that "the bitrate may be a prestored value based upon the average bitrate of the incoming transport stream signals over time." (Official Action at 8.) In making this assertion, the Examiner appears to be relying on paragraph [0026] of *Bruls*. Paragraph [0026] states that "a general average bit rate over a large number of programs may be established before-hand or during previous sessions, such as 'sport' (high complexity) or 'talk show' (low complexity)." But the general bit average bit rate referred to in this portion (and the remainder) of *Bruls* is the bit rate at output 23, which is the bit rate at which encoding takes place, i.e., the outgoing bit rate. Applicants respectfully submit that establishing an outgoing average bit rate related to the complexity of a program is not suggestive of prestoring the bit rate value of an incoming data stream. Thus, *Bruls* does not teach or suggest prestoring a value associated with an incoming bit rate or data stream. Indeed, the only bit rate discussed in *Bruls* is the outgoing bit rate calculated by the compression unit 22.

In this regard, since claim 1 recites "a memory for storing said received transport stream data and containing a pre-stored bit-rate value that indicates the bit-rate of said transport stream data before receipt of said transport stream by said receiving unit," and claims 7 and 13 recite "retrieving a bit-rate value pre-stored in the memory, the bit rate value indicating the bit rate of the transport stream to be received

by the receiver," these claims are not rendered obvious as asserted by the Examiner because *Bruls* does not make up for the noted deficiency in *Metz*, *Howe*, and *Raychaudhuri*. Thus, none of these references disclose or teach prestoring a bit rate value that indicates the bit rate of the incoming transport stream. In addition, none of the references suggest prestoring a bit rate value of an incoming data stream

Therefore, applicants respectfully submit that claims 1, 7 and 13 are not rendered obvious by the combination of *Metz*, *Howe*, *Raychaudhuri* and *Bruls* for at least the foregoing reasons. In addition, applicants respectfully submit that *Surine* does not make for this deficiency in *Metz*, *Howe*, *Raychaudhuri* and *Bruls*.

Furthermore, as all the other claims pending in the application depend from either claim 1, 7 or 13, these claims are also not rendered obvious for at least the foregoing reasons.

Although the Examiner indicated that applicants' previous arguments were moot in view of the new grounds of rejection, the Examiner responded to a number of applicants previous arguments. (Official Action at 2, item 1.) Applicants now briefly reply to the Examiner's responses.

With regard to the Examiner's argument that applicants cannot show non-obviousness by individually attacking the references, applicants note that in their prior arguments they addressed the specific combinations relied on by the Examiner. For example, in the amendment filed on July 15, 2005, applicants discussed the combination of *Surine* and *Raychaudhuri* in detail. Thus, applicants respectfully submit that they have not individually attacked the references.

With regard to the Examiner's response to applicants' argument that it would not be obvious to modify *Raychaudhuri* with *Surine*, applicants note that the Examiner has responded by citing *Bruls*.

Applicants still respectfully submit that *Surine* does not teach or suggest the advantage of preventing buffer underflow or overflow. In this regard, the Examiner points to *Surine*, 9:11-20 and 9:36 - 10:2, but this portion of *Surine* does not mention or suggest preventing underflow or overflow.

With regard to the other responses made by the Examiner, applicants respectfully refer to their prior arguments in the amendments previously filed.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 10, 2005

Respectfully submitted,

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